

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
North Carolina RSA #4, Inc.)	DA 04-3536
North Carolina RSA #6, Inc.)	
USCOC North Carolina RSA #7, Inc.)	
North Carolina RSA #9, Inc.)	
Jacksonville Cellular Telephone Co.)	
Wilmington Cellular Telephone Co.)	
)	
Petition For Designation as an Eligible)	
Telecommunications Carrier in the)	
State of North Carolina)	

**REPLY COMMENTS
of the
ORGANIZATION FOR THE PROMOTION AND ADVANCEMENT
OF SMALL TELECOMMUNICATIONS COMPANIES**

I. INTRODUCTION

The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) hereby submits these reply comments in response to the proceeding on the North Carolina RSA #4, Inc., North Carolina RSA #6, Inc., USCOC North Carolina RSA #7, Inc., North Carolina RSA #9, Inc., Jacksonville Cellular Telephone Co., and Wilmington Cellular Telephone Co. (collectively, U.S. Cellular) petition for designation as an eligible telecommunications carrier (ETC) and

rural service area redefinitions in the state of North Carolina.¹ OPASTCO is a national trade association representing more than 560 small incumbent local exchange carriers (ILECs) serving rural areas of the United States. Its members, which include both commercial companies and cooperatives, together serve over 3.5 million customers. All of OPASTCO's members are rural telephone companies as defined in 47 U.S.C. §153(37). In addition, they are all eligible telecommunications carriers (ETCs) in their respective service areas.

II. COMMENTS

U.S. Cellular's application for ETC designation in North Carolina should be stayed until after the Commission completes the proceedings that are considering changes to the rules relating to rural high-cost support and the process for designating ETCs. On February 27, 2004, the Federal-State Joint Board on Universal Service (Joint Board) released a *Recommended Decision* that proposes to limit support to primary lines and to adopt federal guidelines for the designation of ETCs.² Shortly thereafter, the Commission issued a Notice of Proposed Rulemaking, seeking comment on this *Recommended Decision*.³ Most recently, the Joint Board released a Public Notice seeking comment on issues related to the rural high-cost support mechanism to succeed the five-year framework approved in the Rural Task Force Order.⁴ It is quite possible

¹ *Parties Are Invited to Comment on U.S. Cellular Petition for Designation as an Eligible Telecommunications Carrier in the State of North Carolina*, CC Docket No. 96-45, Public Notice, DA 04-3536 (rel. Nov. 9, 2004).

² *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Recommended Decision, 19 FCC Rcd 4257 (2004).

³ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Notice of Proposed Rulemaking, 19 FCC Rcd 10800 (2004).

⁴ *Federal-State Joint Board on Universal Service Seeks Comment on Certain of the Commission's Rules Relating to High-Cost Universal Service Support*, CC Docket No. 96-45, Public Notice, 19 FCC Rcd 16083 (2004).

that, as a result of these proceedings, there will be some changes in the way in which competitive ETCs are designated, and in the level of support that they receive.⁵

In response to U.S. Cellular's petition, commenters have recommended that until the issues being considered in these proceedings are resolved, the Commission should stay the approval of additional ETC applications.⁶ OPASTCO agrees with these commenters that the public interest would be best served by preventing the USF from growing out of control at the same time that key policies related to universal service support levels and ETC designations are currently under review.⁷ Thus, a stay on the review of pending ETC applications until these portability issues are resolved would be a prudent way to address the rapid growth of the fund in the interim.⁸

⁵ See, Citizens Telecommunications Company of New York (Citizens) Comments in CC Docket No. 96-45 (filed June 21, 2004), p. 13.

⁶ See, North Carolina Rural Carrier Group Comments, pp. 3-4; Verizon Comments, pp. 3-4.

⁷ In its white paper *Universal Service in Rural America: A Congressional Mandate at Risk*, OPASTCO estimated that if all CMRS providers nationwide were to apply for and receive ETC status, the annual funding level of the High-Cost program would increase by approximately \$2 billion. This would seriously compromise the continued ability of the High-Cost program to ensure the provision of affordable and "reasonably comparable" services and rates to consumers in the most remote regions of the nation. See, Stuart Polikoff, *Universal Service in Rural America: A Congressional Mandate at Risk*, OPASTCO, (January 2003), p. 21.

⁸ There is a related precedent for staying the approval of additional ETC applications. In order to moderate the fund's growth during its pending Part 36 USF rulemaking proceeding, the Commission imposed an interim cap on USF support for local exchange carriers from January 1, 1994 until January 1, 1996. See, *Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board*, CC Docket No. 80-286, Report and Order, 9 FCC Rcd 303 (1993), Erratum (1993). After an initial extension, the interim cap was further extended until May 8, 1997, so as to facilitate the transition to the new universal service rules that were adopted at that time. See, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 11 FCC Rcd 7920 (1996).

III. CONCLUSION

For the foregoing reasons, U.S. Cellular's application for ETC designation and service area redefinitions in North Carolina should be stayed pending the resolution of the current proceedings that are considering changes to the calculation of high-cost support for competitive ETCs and the development of policy guidelines for the review of ETC applications.

Respectfully submitted,

**THE ORGANIZATION FOR THE
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December 7, 2004

CERTIFICATE OF SERVICE

I, Jeffrey W. Smith, hereby certify that a copy of the reply comments by the Organization for the Promotion and Advancement of Small Telecommunications Companies was sent by first class United States mail, postage prepaid, on this, the 7th day of December, 2004, to those listed on the attached list.

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